

THIS FACSIMILE TRANSMISSION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL OR EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE PERSON WHO RECEIVES THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS HEREBY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO THE SENDER AT THE BELOW ADDRESS VIA THE U.S. POSTAL SERVICE.


**OFFICE OF COUNSEL CODE 39  
NAVAL SURFACE WARFARE CENTER  
CARDEROCK DIVISION  
9500 MACARTHUR BOULEVARD  
WEST BETHESDA, MD 20817-5700  
Voice (General Law) (301) 227-3566  
Voice (Intellectual Property Law): (301) 227-1835  
Fax: (301) 227-1968**

Date: Friday, February 20, 2004  
From: Dorothy J. Vranish  
To: Board of Patent Appeals and Interferences  
Phone (703) 308-9797, fax, (703) 308-7952

**Total Number of Pages Sent (Including This Page): 8**

**Certificate of Transmission under 37 CFR 1.8**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. (703) 308-7952) on Friday, February 20, 2004.

  
DOROTHY J. VRANISH

**Remarks:**

In re application of

Louis F. Aprigliano et al.

Serial No. 09/656,017

Filed: Sept. 7, 2000

For: METHOD OF PRODUCING CORROSION  
RESISTANT METAL ALLOYS WITH  
IMPROVED STRENGTH AND DUCTILITY

: Group Art Unit: 1722

: Examiner: K. Lin

: CONFIRMATION NO. 2288

: APPEAL NO. 2004-0769

**Docket Notice Acknowledgement with enclosures.**

Navy Case No. 82,627  
Appl. No. 09/656,017  
Appeal No. 2004-0769  
Reply to the Docketing Notice

BOARD OF PATENT  
APPEALS &  
INTERFERENCES

FEB 20 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF APPEALS AND INTERFERENCES

In re application of :  
Louis F. Aprigliano et al. :  
Serial No. 09/656,017 : Group Art Unit: 1722  
Filed: Sept. 7, 2000 : Examiner: K. Lin  
For: METHOD OF PRODUCING CORROSION : CONFIRMATION NO. 2288  
RESISTANT METAL ALLOYS WITH :  
IMPROVED STRENGTH AND DUCTILITY : APPEAL NO. 2004-0769

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**DOCKET NOTICE ACKNOWLEDGEMENT**

Sir:

(A) Applicants in the above identified application under appeal, acknowledge reception of the Docket Notice dated Feb. 13, 2004 from the Board of Patent Appeals and Interferences.

(B) This paper is submitted because the Docket Notice (1) incorrectly indicates filing of the Reply Brief, on March 19, 2003, (2) fails to indicate mailing of the Examiner's Office Communication (paper No. 29) on March 19, 2003 concerning the Reply Brief and (3) fails to acknowledge reception of Applicants' Response to the Examiner's Communication concerning the Final Office action and the Reply Brief. In view of the foregoing referred to omissions [(1), (2) and (3)] in the Docket Notice, submitted herewith are copies of:

(1) the Feb. 4, 2003 dated filing Receipt with respect to the Reply Brief;

(2) the Examiner's Office Communication on the Reply Brief, confirming its filing on

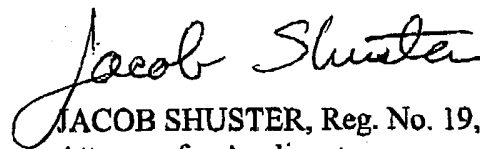
Feb. 4, 2003; and

Navy Case No. 82,627  
Appl. No. 09/656,017  
Appeal No. 2004-0769  
Reply to the Docketing Notice

(3) the Response to Examiner's Communication, filed March 20, 2003 as indicated in its accompanying filing Receipt.

(C) In view of the foregoing referred to aspects of the Docket Notice, the Board is respectfully urged to consider all of the documents of record including those enclosed herewith when formulating the forthcoming decision on appeal.

Respectfully submitted,



JACOB SHUSTER, Reg. No. 19,660  
Attorney for Applicants

Tele: (301) 227-1834

OFFICE OF COUNSEL CODE 39  
NAVAL SURFACE WARFARE CENTER  
CARDEROCK DIVISION HEADQUARTERS  
DAVID TAYLOR MODEL BASIN  
9500 MACARTHUR BOULEVARD  
WEST BETHESDA, MD 20817-5700

NAVY CASE NO. 82,627

SERIAL NO. 09/656,017

APPLICANT Louis F. Aprigliano et al.

Receipt of the following application papers is evidenced hereon by official stamp of the  
U. S. Patent and Trademark Office:

Response to Examiner's Communication



BOARD OF PATENT  
APPEALS &  
INTERFERENCES

Navy Case No. 82,627

PATENTS

FEB 20 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of :  
Louis F. Aprigliano et al. :  
Serial No. 09/656,017 : Group Art Unit: 1722  
Filed: Sept. 7, 2000 : Examiner: K. Lin  
For: METHOD OF PRODUCING CORROSION : CONFIRMATION NO. 2288  
RESISTANT METAL ALLOYS WITH :  
IMPROVED STRENGTH AND DUCTILITY :

RESPONSE TO EXAMINER'S COMMUNICATION

Commissioner for Patents  
Washington, D.C. 20231

Sir:

Following the filing of a Reply Brief on Feb. 4, 2003, an Examiner's Communication dated March 19, 2003 was received, indicating: "The reply brief--had been considered by the Examiner--the claimed invention is deemed to be unpatentable--for the same reasons as set forth in the final rejection--".

The Examiner's latter quoted statement involves a factually erroneous basis for supporting that rejection of the claimed invention subject to appeal, as hereinafter pointed out.

1. It must be assumed that the claimed invention subject to this appeal is covered by and/or defined by claims 5, 6 and 9 as amended under Rule 116 after the Final Office action dated July 30, 2002, as indicated in the Examiner's Advisory Action dated Sept. 27, 2002.

2. The reasons set forth in the Final Office action in support of the rejection of claims 5, 6 and 9 omit any reference to certain critical claim limitations involving: (a) increase in yield strength, (b) improvement in ductility, and (c) percentage of corrosion-resisting material in the ductile alloy as pointed out in the Reply Brief.

3. The latter referred to omission of rejection supporting reasons in the Final Office action to support the final rejection of claims 5, 6 and 9 under appeal is further evidenced in the Examiner's Advisory Action dated Sept. 27, 2002 wherein it is conjectured for the first time after the Final Office action that in regard to the prior art references relied on, "--strength of the cast alloy--modified process--also increase as claimed alloy does--".

In view of the foregoing referred to record in this application, the issues to be considered in this appeal should be limited as pointed out in the Reply Brief, to the exclusion of the Examiner's conjectural statements submitted after the Final Office action, since applicants' request of record for reopening of prosecution was denied.

Respectfully submitted,



JACOB SHUSTER, Reg. No. 19,660  
Attorney for Appellants

Tele: (301) 227-1834  
OFFICE OF COUNSEL CODE 39  
NAVAL SURFACE WARFARE CENTER  
CARDEROCK DIVISION HEADQUARTERS  
DAVID TAYLOR MODEL BASIN  
9500 MACARTHUR BOULEVARD  
WEST BETHESDA, MD 20817-5700